

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
FCC Seeks Comment on Adopting)	GN Docket No. 13-86
Egregious Cases Policy)	
)	
To: The Commission)	

**Curtis J Neeley Jr's Reply to Comments
of the Association of Public Television Stations
and Public Broadcasting Service
on
Broadcast Indecency Policy
GN Docket No. 13-86**

Curtis J Neeley Jr read the ten-page comment entered and found these television stations failed to recognize or comment on decades of nonfeasance by the FCC. The FCC is now faces litigation lasting many years and is not yet completed against Curtis J Neeley Jr in *Neeley Jr v FCC, et al*, (5:12-cv-5208)(13-1506). This litigation and the (13-1506) appeal was improperly dismissed or the District Court mistake was affirmed by judges growing up without cellular-phones, [sic] “internet”, or the existence of the nation of Israel. All judges born later than 1943 are (70) and grew up without these technological developments and reached the age of twenty-five before mankind first walked on the moon. These elderly Article III judicial appointments have inappropriately lifelong rule with only the caveat that these judges rule during “good behavior”. “Good behavior” was never defined but should require retirement between the ages of (65-70) with Senate reconfirmations each year past 65.

Neeley Jr v FCC, et al, (5:12-cv-5208)(13-1506) seeks reconsideration of *Pacifica* failing to address ALL indecent broadcasting and the Copy[rite] Act of 1790 failing to protect the human rights of creators. Each of these issues is wholly entangled with the illegal [sic] “open internet” of unregulated indecent wire communications and leave the [sic] “open internet” filled with near-free access to pornography and unregulated speech that will instead become a safe regulated and monitored public communications venue before Curtis J Neeley Jr ceases pursuit of the FCC, et al. The unsafe communications allowed to be broadcast to unknown parties is against the laws of today. Judges first exposed to this technological sea-change recently are not likely to allow *Neeley Jr v FCC, et al*, (5:12-cv-5208) to resolve following clear United States laws due to offensive tenor shown by Curtis J Neeley Jr in the past and herein due to severe traumatic brain injury and calling the oligarchy of Article III judges “rulings” expressions of age beginning to negatively impact their minds and use of the term senility.

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1. The Association of Public Television Stations (“APTS”) and the Public Broadcasting Service (“PBS”) (collectively, “PTV”) requested the Federal Communications Commission (“FCC”) modify §1464 enforcement and the complaint process to further the PTV mission of fully and exploring topics of interest to local communities without threats of legal penalty. Public television stations do not regularly seek to air content that panders or titillates. Often during the last decade, fear of §1464 enforcement chilled the distribution and presentation of §1464 indecent content as was proper.

2. With prolific PTV engagement with local communities, public television stations are better situated to be responsive to the sensibilities of viewers in order to survive. “Local stations” are, however, susceptible to regulatory effects of FCC §1464 indecency policy often preventing coverage of issues in ways ONLY the “local stations” consider appropriate for their community of viewers.

3. PTV inappropriately urged the FCC to return to pre-2004 type nonfeasance. PTV requested the FCC update its complaint process and should have sought a policy empowering disposal of clearly meritless complaints that should now result in fines and resolution all complaints within sixty days or other reasonably short time. Curtis J Neeley Jr cannot understand any reason this type request should not be granted and does not understand why there still remained a need to make such an obvious fact known to the FCC.

PUBLIC TELEVISION STATIONS ARE BEST SITUATED TO ADDRESS COMMUNITY MORALITY BUT ARE MORE SUSCEPTIBLE TO NEGATIVE EFFECTS OF FCC INDECENCY ENFORCEMENT.

1. Public television stations are owned and operated by state and local governments, colleges, universities, and other locally-run, not-for-profit entities firmly rooted in local communities. As a result of unique local connections, public television stations are more aware of moral issues most important to their viewers and are better positioned to judge community standards of decency.
2. Public television stations also gain an appreciation for the needs of local communities through many partnerships with viewers and local entities to promoting literacy, teacher training, and providing outreach for civic engagement. Viewers expect public television stations to deliver content that safely depict historical events, artistic endeavors, public affairs topics, and other matters. As a result of this track record of meeting otherwise unserved needs with programming of high and child-safe editorial standards, Americans rated PBS and member stations as the among the country's most trusted national institutions year after year for more than a decade.

3. Programming decisions often depend on whether particular words, phrases, or situations have been allowed in prior FCC decisions as is prudent and the results of proper regulation. PBS is unable to discern a consistent risk avoidance standard for when expletives in historical footage in documentaries or momentary human nakedness in alleged “arts programming” could result in sanctions by the FCC. PBS and member stations are left in the position of choosing to risk significant fines by allowing indecent content to be broadcast to the unwitting or editing the indecent content to ensure public safety as was the intentions of the Communications Act.

4. Public television stations do not have “deep pockets” and often the threat of potential forfeitures of \$325,000 per violation, delays in license renewal, or the substantial costs of defending against frivolous indecency complaints have more impact on noncommercial broadcasters than on “deep pocket” television licensees who are not considered as highly valued institutions as would indicate a need to increase liabilities for “deep pocket” licensees.

5. Seems the PBS comment addressed the trusted ratings of PBS but failed to realize that these rating are due to enforcement of the Communications Act by the FCC to a large extent.

6. In 2011, public television stations received an average of \$1,265,972 per station in federal funds from the Corporation for Public Broadcasting, making a forfeiture for a single indecency violation more than 25 percent of the average annual federal grant. The impact on the nation’s public television system is often multiplied by the volume of public television stations that choose to distribute a single PBS broadcast of indecency. With crippling fines and penalties of this magnitude, the indecency policy encourages or requires public broadcasters and distributors to self-censor content that, although obviously indecent, would provoke discussion and inform viewers on the artistic, scientific, historical, or social issues impacting their community morals, as is prudent and clear results of effective execution of the Communications Act.

7. Viewers regularly whine to local public television stations that self-censorship prevents consumption of indecency that is better left to the determination of porn-starved viewers. Preventing television stations from broadcasting indecent issues of scientific, historical, and social importance to their communities undermines public television's ability to compete with the wholly unregulated and utterly irresponsible indecent and obscene content trafficking of other broadcast venues such as [sic] "internet" wire communication broadcasts and cable television broadcasts as are replacing many public RF broadcast stations today.

**THE FCC INDECENCY POLICY IS A BLUNT INSTRUMENT THAT
OFTEN IMPOSES EXCESSIVE BURDENS ON PUBLIC TELEVISION
LICENSEES' AND IS A WASTE OF FCC RESOURCES.**

1. The FCC indecency policy has been nonfeasance since the *Pacifica* ruling due to completely failing to intervene and prohibit indecent communications by wire broadcasters in any way. This failure exposes the public to unsafe broadcasts of indecency counter to the rationale for the Commission's existing or the whole premise of the Communications Act and creation of the FCC.

2. At the close of the 1970s, when the FCC began enforcing prevention of broadcasts of indecency. Until 2004, the FCC played an inadequate, if detectable, role in the regulation of indecent broadcast of content. Throughout this period, the FCC expanded complete nonfeasance from wire communications called cable television to complete malfeasance in [sic] "internet" wire communications. In 2004, the FCC began indecency enforcement with an inaccurate indecency standard on RF broadcast giving other illegal, unregulated media inappropriate license to profit by organized criminal trafficking of indecency prohibited by the clear language of the ignored Communications Act.

The beginning of broadcast indecency enforcement resulted in clearly deficient complaints developed due to FCC's lack of requiring responsibility for frivolous indecency complaints. The FCC's responsibility-waiving policy should require dismissal of complaints if "the description of the material contained in the complaint is not sufficient to determine whether a violation of the statute or FCC rules regarding indecent, obscene, and profane material have occurred". Sworn statements should be required to enable punishment of frivolous complaints.

CONCLUSION

Along the pathway to becoming the nation's most trusted Federal Agency and making ALL distant communications patently safe, the Federal Communications Commission must begin executing the clear statutory duty to allow a diverse range of arts, sciences, news, and cultural programming to be "broadcast" to the public ONLY when required to remain safe for all public receivers of these broadcast communications regardless of the venue used for broadcast. The FCC must finally enforce the Communications Act for ALL communications venues and establish a fair, unbiased approach treating all media used for broadcasting communications to the random public the same by ensuring the safety of public RF television, public RF radio, public cable television, and public [sic] "internet" wire communications including those wire connections commonly called "wireless" or Wi-Fi communications that are simply short radio apparatus closing the larger spans of wired networks installed across great distances for wire communications making even mobile telephones and Wi-Fi "wireless" [sic] "internet" nothing but relatively short radio apparatus completing the ends of wire communications defined in 47 USC §153 ¶(59).

This was typed very slowly following the same form used by PTS & PBS and should be easy enough for even elderly Article III Justices to understand. This paragraph should be offensive enough to the ruling "elders" that most ruling "elders" will forget every valid point raised herein. The public, however, will not and safe distant communications will soon be required to occur via even [sic] "internet".

Failure is impossible,
/s/Curtis J Neeley Jr
Curtis J Neeley Jr

END NOTES

¹ APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation's CPB-qualified noncommercial educational television stations. Its mission is to support the continued growth and development of a noncommercial television service for the American public.

² PBS, with its nearly 360 member stations, offers all Americans the opportunity to explore new ideas and worlds through television content. Each month, PBS reaches 120 million people through television.

³ See, e.g., Press Release, PBS, "PBS and Member Stations Mark 10 Years as America's Most Trusted Institution and an 'Excellent' Use of Tax Dollars" (Feb. 21, 2013), <http://www.pbs.org/about/news/archive/2013/pbs-most-trusted/>; Community Needs Report, at 157 ("Public broadcasters have generally achieved a high level of respect among the public . . . [and] [p]ublic television seems to occupy a special place of honor for a wide swath of Americans."); TVNewsCheck, Polls: PBS Most Trusted News Source (Feb. 18, 2010), <http://www.tvnewscheck.com/article/2010/02/18/39961/polls-pbs-most-trusted-news-source>; Roper Public Affairs & Media, *Roper Public Opinion Poll on PBS: 2005 Update* (Feb. 2005), http://www.pbs.org/roperpoll2005/roper2005_files/frame.html.

⁴ Steven Waldman, Fed. Comm'n Comm'n, *The Information Needs of Communities: The Changing Media Landscape in a Broadband Age*, at 153, 158 (July 2011), <http://www.fcc.gov/infoneedsreport> ("Community Needs Report").

⁵ U.S. Gov'n't Accountability Office, *Telecommunications: Issues Related to Structure and Funding of Public Television*, GAO 07-150, at 18 (Jan. 2007).

⁶ If each public television station distributed a single PBS program that is found to be indecent, the total forfeitures could result in more than \$115 million, or more than a quarter of PBS's total annual revenue. PBS, IRS Form 990 (2011).

⁷ *Citizen's Complaint Against Pacifica Found. Station WBAI (FM), New York, N.Y.*, Declaratory Order, 56 F.C.C. 2D 94, ¶ 16 (1975).

⁸ *Application of WGBH Educ. Found. for Renewal of License for Noncommercial Educ. Station WGBH-TV, Boston, Mass.*, Mem. Opinion and Order, 69 F.C.C. 2d 1250, ¶ 11 (1978); see also *Action for Children's Television*, 852 F.2d 1332, 1340 n.14 (D.C. Cir. 1988) (endorsing the FCC's definition of indecency in part because of its assurances that the FCC will continue its "restrained enforcement policy"); Letter to Mr. Peter Branton from Donna R. Searcy, Secretary, Fed. Comm'n Comm'n, 6 FCC Rcd. 610 (1991) (observing that the FCC "traditionally ha[s] been reluctant to intervene in the editorial judgments of broadcast licensees").

⁹ See *Complaints Against Various Broadcast Licensees Regarding Their Airing of the "Golden Globe Awards" Program*, Mem. Opinion and Order, 19 FCC Rcd. 4975, ¶ 8 (2004) (finding that the word "fuck" and its variations "inherently ha[ve] a sexual connotation" and thus, regardless of context, "depict or describe sexual activities").

¹⁰ See, e.g., *Complaints Regarding Various Television Broadcasts Between February 2, 2002 and March 8, 2005*, Notices of Apparent Liability and Mem. Opinion and Order, 21 FCC Rcd. 2664, ¶ 77 (2006); *Complaints Against Various Television Licensees Concerning Their February 1, 2004 Broadcast of the Super Bowl XXXVIII Halftime Show*, Forfeiture Order, 21 FCC Rcd. 2760, ¶ 77 (2006).

¹¹ *Complaints Regarding Various Television Broadcasts Between February 2, 2002 and March 8, 2005*, 21 FCC Rcd. 2664, ¶ 77 (disagreeing with broadcasters "that the use of such language was necessary to express any particular viewpoint," in part, because "many of the expletives in the broadcast are not used by blues performers," but instead by hip hop performers and a leading record producer).

¹² FCC, "Obscenity, Indecency, Profanity - Complaint Process," *FCC Encyclopedia*, <http://www.fcc.gov/encyclopedia/obscenity-indecency-profanity-complaint-process?contrast=>.

¹³ For example, public television station WETA in Washington, D.C. currently is experiencing delay with its license renewal. We understand the FCC received an indecency complaint for the station regarding an

¹⁴ *See, e.g.*, Press Release, PBS, “PBS and Member Stations Mark 10 Years as America’s Most Trusted Institution and an ‘Excellent’ Use of Tax Dollars” (Feb. 21, 2013), <http://www.pbs.org/about/news/archive/2013/pbs-most-trusted/>.